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VIA CM/ECF

September 17, 2013

Mr. Mark J. Langer
U.S. Court of Appeals for the
District of Columbia Circuit
333 Constitution Avenue, N.W.
Room 5523
Washington, D.C. 20001

Attn: Marilyn Sargent, Chief Deputy Clerk

RE: *Ali v. Obama*, No. 11-5102 (D.C. Cir.) (argument scheduled for September 27, 2013)

Dear Mr. Langer:

The above-referenced case is scheduled for oral argument on September 27, 2013, before Judge Kavanaugh and Senior Judges Edwards and Williams. We are writing to remind the Court that the record in this case includes sealed, classified information, which has been filed with the Court under special security arrangements. As the Court is aware, both the petitioner-appellant and the government filed classified briefs, and the Joint Appendix is also classified. The Department of Justice has provided classified material to the Court with the understanding that the secrecy of this information will be properly protected. *See* 28 C.F.R. § 17.17 (regulations providing that classified information may be disclosed by Justice Department attorneys to a court). The parties have also filed public, redacted, unclassified versions of the briefs and the Joint Appendix.

Government counsel and counsel for the petitioner-appellant are obligated to ensure that they do not refer to any classified information contained in the record or the classified versions of the parties' briefs during any argument session that is

open to the public, and government counsel is prepared to argue this case in an open courtroom to the extent possible. If, however, it becomes necessary for the Court or either counsel to refer to classified information in the record, we assume that the courtroom will be cleared of all persons other than the Judges, counsel for the petitioner-appellant, government counsel, and other persons cleared to have access to the classified information in the record in this case. In the alternative, the relevant information can be discussed in some other secure environment.

Thank you for your attention on this matter, and please do not hesitate to contact us with any questions or if we can be of further assistance.

Sincerely,

s/ Sydney Foster

Sydney Foster
Attorney, Appellate Staff

cc: counsel (via CM/ECF)